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November 1, 2021

**VIA ECF**

The Honorable Valerie E. Caproni  
Thurgood Marshall United States Courthouse  
Courtroom 443  
40 Foley Square  
New York, NY 10007

**Re: Perks v. TD Bank, N.A., No. 18-CV-11176 (VEC)**

Dear Judge Caproni:

The parties submit this joint letter to request the Court grant two forms of relief with respect to the notices currently being prepared for delivery to the Class.

**First**, pursuant to the Court's September 7, 2021 Preliminary Approval Order (ECF No. 103), the deadline to provide mail and e-mail notice to class members is November 6, 2021. Notice is ready to go out to the vast majority of class members. However, during their active supervision of the notice process ordered by the Court, the Parties have determined that there is a very limited subset of data—for short time period and particular geographic region—that still must be collected, processed, and analyzed to ensure a complete Class list. The collection and analysis of this particular subset of data is a particularly time-consuming process given the age of the data.

In order to ensure that all Class Members are sent notices at the same time, and to ensure all Class Members have sufficient time to determine whether to opt-out of or object to the proposed Settlement, the Parties respectfully request a 10-week extension of the November 6, 2021 deadline to provide notice to class members, thereby making the deadline January 15, 2022, to enable all class members to receive notice at the same time. The parties also seek a corresponding 10-week extension on the remaining deadlines in the Preliminary Approval Order. This is the parties' first request for extension of this deadline.

The parties respectfully submit the following proposed schedule of deadlines:

Deadline for Settlement Administrator to Mail and E-mail Notice to Class Members	January 15, 2022
Deadline for any petition for an award of attorneys' fees, costs, and service awards	January 15, 2022



Opt-Out Deadline	March 16, 2022
Objection Deadline	March 16, 2022
Deadline for Motion for Final Approval	March 29, 2022
Final Approval Hearing	The week of May 2, 2022

**Second**, during their aforementioned active supervision of the notice process ordered by the Court, the Parties have also determined that a lower proportion of Class Members maintain a valid email address for purposes of notice delivery than anticipated by the Parties at the time Plaintiffs filed the Motion for Preliminary Approval. The practical effect is that estimated notice and administration costs will be somewhat higher than anticipated, since more notices will be sent by U.S. Mail postcard than anticipated—with the attendant printing and postage costs. Specifically, where the Parties previously estimated that notice and administration costs would total \$621,000, the Parties and the Settlement Administrator now estimate notice and administration costs will total \$795,000. Accordingly, the Parties respectfully request that the Court allow the Long Form Notice be amended as follows.

Pursuant to this Court's direction, the Long Form Notice currently states, in relevant part:

*Defendant has agreed to create a Settlement Fund of \$20,750,000.00. It will also forgive Uncollected Retry NSF Fees totaling \$20,750,000, as defined in the Settlement Agreement. Finally, it will pay the first \$500,000 of the costs of settlement notice and administration to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice). Total costs of notice and administration are expected to amount to \$621,000, which means that Defendant will pay all but \$121,000 of those costs.*

*As discussed separately below, attorneys' fees, litigation costs, and any costs of notice and administration paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice) in excess of \$500,000 (currently expected to be \$121,000) will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on a formula described in the Settlement Agreement.*

The Parties request that the Long Form Notice be amended to state:

*Defendant has agreed to create a Settlement Fund of \$20,750,000.00. It will also forgive Uncollected Retry NSF Fees totaling \$20,750,000, as defined in the Settlement Agreement. Finally, it will pay the first \$500,000 of the costs of settlement notice and administration to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice). Total costs of notice and administration are expected to amount to \$795,000 which means that Defendant will pay all but \$295,000 of those costs.*

*As discussed separately below, attorneys' fees, litigation costs, and any costs of notice and administration paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice) in excess of \$500,000 (currently expected to be \$295,000) will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on a formula described in the Settlement Agreement.*

Respectfully submitted,

/s/ Jeffrey D. Kaliel

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Application GRANTED. The deadline for the Settlement Administrator to mail and email notice to class members is hereby ADJOURNED until January 15, 2022. The deadline for any petition for an award of attorneys' fees, costs, and service awards is hereby ADJOURNED until January 15, 2022. The opt-out deadline is hereby ADJOURNED until March 16, 2022. The objection deadline is hereby ADJOURNED until March 16, 2022. The deadline for a motion for final approval is hereby ADJOURNED until March 29, 2022. The final approval hearing is hereby ADJOURNED from March 9, 2022, at 2:00 p.m. until May 3, 2022, at 2:00 p.m.

The parties' request to amend the long-form notice is also GRANTED.

SO ORDERED.

 11/2/21

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE